

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

THOMAS HOMBS,

Plaintiff,

v.

Case No. 18-cv-1383-pp

JUDGE EDWARD STENGEL, *et al.*,

Defendants.

ORDER DISMISSING PLAINTIFF'S CASE WITHOUT PREJUDICE

On September 6, 2018, the plaintiff filed a complaint under 42 U.S.C. §1983. Dkt. No. 1. The Prison Litigation Reform Act (PLRA) applies to this case because the plaintiff was incarcerated when he filed his complaint. As required by that law, Magistrate Judge Nancy Joseph (the judge assigned to the case at that time) screened the plaintiff's complaint to determine whether it stated claims for which a federal court could grant relief. She found that the complaint did not state a claim, but she gave the plaintiff the opportunity to file an amended complaint. Dkt. No. 8.

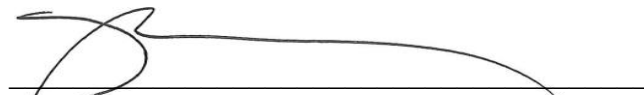
Judge Joseph informed the plaintiff that if he wanted to proceed with his case, he had to file the amended complaint by November 16, 2018. She also informed the plaintiff that, if he did *not* file the amended complaint by the deadline (or explain to the court why he was unable to do so), the court would conclude that he no longer wanted to pursue his case and would dismiss it without prejudice based on his failure to diligently prosecute it. The plaintiff did not file an amended complaint by the deadline.

Although the plaintiff consented to Judge Joseph hearing and deciding the case, the defendants have not yet had the opportunity to decide whether to consent because, under the PLRA, the court does not order the complaint to be served on the defendants until after it screens the complaint and finds that the plaintiff states a claim with which he may proceed. Because *both* parties have not consented to the magistrate judge hearing the case, the clerk's office reassigned the case to this court to decide whether to dismiss the case. Because the plaintiff did not file an amended complaint by the deadline Judge Joseph set, the court will dismiss the case.

The court **ORDERS** that the plaintiff's complaint is **DISMISSED WITHOUT PREJUDICE** based on his failure to diligently prosecute it. See Civil L.R. 41(c) ("Whenever it appears to the Court that the plaintiff is not diligently prosecuting the action . . . the Court may enter an order of dismissal with or without prejudice. Any affected party may petition for reinstatement of the action within 21 days.").

Dated in Milwaukee, Wisconsin, this 4th day of December, 2018.

BY THE COURT:

A handwritten signature in black ink, appearing to read 'P. Pepper', is written over a horizontal line.

HON. PAMELA PEPPER
United States District Court Judge